

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GERALD R. TARUTIS, et al,

Plaintiffs,

vs.

SPECTRUM BRANDS HOLDINGS, INC.,  
et al.,

Defendants.

Case No. 2:13-cv-00761-JLR

DEFENDANT SS BETHEL, LLC'S ANSWER  
TO PLAINTIFFS' FIRST AMENDED  
COMPLAINT FOR DAMAGES

**I. ANSWER**

Defendant SS Bethel, LLC, by and through its attorneys of record, Forsberg & Umlauf, P.S., answers plaintiffs' First Amended Complaint For Damages as follows.

1. Defendant denies the allegations contained in paragraph 1. of the complaint.

2. The allegations contained in paragraph 2. of the complaint which are conclusions of law do not require an answer. To the extent an answer is required, defendant denies the same. Defendant specifically denies that the battery ingested by R.J.S. was not reasonably safe or was unreasonably dangerous in any respect, including its packaging.

3. This case has been removed to this Court in the time since plaintiffs' complaint was filed in the King County Superior Court, mootng many of the allegations contained in paragraph 3. The allegations contained in paragraph 3. of the complaint are conclusions of

1 law that do not require an answer. To the extent an answer is required, defendant denies the  
2 same.

3 4. Defendant is without sufficient information to form a belief as to the truth or  
4 untruth of the allegations contained in paragraph 4. of the complaint and for this reason denies  
5 the same.

6 5. Defendant is without sufficient information to form a belief as to the truth or  
7 untruth of the allegations contained in paragraph 5. of the complaint and for this reason denies  
8 the same.

9 6. Defendant is without sufficient information to form a belief as to the truth or  
10 untruth of the allegations contained in paragraph 6. of the complaint and for this reason denies  
11 the same.

12 7. Defendant is without information sufficient to form a belief as to the truth or  
13 untruth of the allegations contained in paragraph 7. of the complaint, which are all directed to  
14 another defendant, and for this reason denies the same.

15 8. Defendant is without information sufficient to form a belief as to the truth or  
16 untruth of the allegations contained in paragraph 8. of the complaint, which are all directed to  
17 another defendant, and for this reason denies the same.

18 9. Defendant is without information sufficient to form a belief as to the truth or  
19 untruth of the allegations contained in paragraph 9. of the complaint, which are all directed to  
20 another defendant, and for this reason denies the same.

1           10.     Answering the allegations contained in paragraph 10. of the complaint,  
2 defendant admits the allegations contained in the first two sentences of paragraph 10. Except  
3 as so admitted the remaining allegations contained in paragraph 10. are denied.

4           11.     Answering the allegations contained in paragraph 11. defendant denies the  
5 same.

6           12.     Defendant incorporates and re-alleges paragraphs 1-11 above as if fully set  
7 forth herein.

8           13.     Defendant is without information sufficient to form a belief as to the truth or  
9 untruth of the allegations contained in paragraph 13. of the complaint and for this reason  
10 denies the same.

11           14.     Defendant is without information sufficient to form a belief as to the truth or  
12 untruth of the allegations contained in paragraph 14. of the complaint and for this reason  
13 denies the same.

14           15.     Answering the allegations contained in paragraph 15. of the complaint,  
15 defendant denies the same.

16           16.     Defendant is without sufficient information to form a belief as to the truth or  
17 untruth of the allegations contained in paragraph 16. of the complaint and for this reason  
18 denies the same.

19           17.     Answering the allegations contained in paragraph 17. of the complaint,  
20 defendant denies the same.

21           18.     Defendant incorporates and re-alleges paragraphs 1-17 above as if fully set  
22 forth herein.

1           19.     Answering the allegations contained in paragraph 19. of the complaint,  
2 defendant denies the same.

3           20.     Defendant is without sufficient information to form a belief as to the truth or  
4 untruth of the allegations contained in paragraph 20. of the complaint and for this reason  
5 denies the same.

6           21.     Answering the allegations contained in paragraph 21. of the complaint,  
7 defendant denies the same.

8           22.     Defendant incorporates and re-alleges paragraphs 1-21 above as if fully set  
9 forth herein.

10          23.     Answering the allegations contained in paragraph 23. of the complaint,  
11 defendant denies the same.

12          24.     Answering the allegations contained in paragraph 24. of the complaint,  
13 defendant denies the same.

14          25.     Defendant is without sufficient information to form a belief as to the truth or  
15 untruth of the allegations contained in paragraph 25. of the complaint and for this reason  
16 denies the same.

17          26.     Defendant is without sufficient information to form a belief as to the truth or  
18 untruth of the allegations contained in paragraph 26. of the complaint and for this reason  
19 denies the same.

20          27.     Defendant is without sufficient information to form a belief as to the truth or  
21 untruth of the allegations contained in paragraph 27. of the complaint and for this reason  
22 denies the same.

1           28. Defendant is without sufficient information to form a belief as to the truth or  
2 untruth of the allegations contained in paragraph 28. of the complaint and for this reason  
3 denies the same.

4           29. Defendant is without sufficient information to form a belief as to the truth or  
5 untruth of the allegations contained in paragraph 29. of the complaint and for this reason  
6 denies the same.

7                                   **II. AFFIRMATIVE DEFENSES**

8           30. Defendant incorporates and realleges paragraphs 1-29 above as if set forth  
9 fully herein.

10          31. Plaintiffs may have failed to mitigate their damages.

11          32. Plaintiffs' alleged injuries may have been caused by the comparative or  
12 contributory fault of plaintiffs Svetlana Savchuk and Sergey Savchuk.

13          33. Plaintiffs' alleged damages were caused in whole or in part by persons over  
14 which defendant has no control and for which defendant has no responsibility, including  
15 Svetlana Savchuk and Sergey Savchuk.

16          34. Assumption of Risk.

17          35. Pursuant to RCW 4.22.070 fault should be allocated among all parties having  
18 fault in this matter.

19          36. Failure to state a claim upon which relief can be granted.

20          37. Defendant's product conformed to prevailing industry standards and practices.

21          38. Lack of proximate causation.

39. Contractual disclaimers of implied warranties, limitations of liability, and limitations of damages.

40. Defendant adopts all available rights and defenses under RCW 4.22, *et. seq.* and RCW 7.72, *et. seq.*

### III. RESERVATION

Defendant SS Bethel, LLC reserves its right to amend this answer, add or delete affirmative defenses, assert counterclaims and/or additional cross claims, and/or institute third-party actions as additional facts are obtained in investigation and discovery.

### IV. PRAYER FOR RELIEF

WHEREFORE, having answered Plaintiff's First Amended Complaint For Damages and set forth affirmative defenses and cross-claims, defendant SS Bethel, LLC prays for relief as follows:

1. Dismissal of plaintiffs' complaint with prejudice;
2. That fault for plaintiffs' injuries and damages, if any, be allocated under R.C.W. 4.22.070, such allocation to include an allocation of fault to plaintiffs Svetlana Savchuk and Sergey Savchuk.
3. For such other further relief as the court may deem just and equitable.

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1 DATED this 10th day of June 2013.

2 FORSBERG & UMLAUF, P.S.

3 By:   
4 Paul S. Smith, #28099  
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5 By: /s/John P. Hayes  
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9 Attorneys for Defendant

**CERTIFICATE OF SERVICE**

The undersigned certifies under the penalty of perjury under the laws of the State of Washington on the date given below, I electronically filed DEFENDANT SS BETHEL, LLC'S ANSWER TO FIRST AMENDED COMPLAINT with the Clerk of the Court using the CM/ECF system which will send notification of such to the following:

James S. Rogers, Esq.  
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**SIGNED** this 10<sup>th</sup> day of June 2013, at Seattle, Washington.

/s/ Paul S. Smith  
PAUL S. SMITH